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ANNUAL REPORT

January 1, 1990 to December 31, 1990

Section 195 of the Criminal Code of Canada



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the Attorney
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INTRODUCTION

1. Pursuant to Section 195(5) of the Criminal Code, the following is a report prepared for the period January 1, 1990, to December 31, 1990, relating to Authorizations for which Agents specially designated in writing by the Attorney General of Ontario for the purposes of Section 185 of the Criminal Code have made Applications and the interceptions made thereunder.
2. As in previous years, the Attorney General did not designate any police officers for the purpose of making emergency Applications as the Province is adequately covered by senior Crown Law Officers of this Ministry who were so designated as Agents of the Attorney General. These Agents are generally Regional and District Crown Attorneys, their senior assistants, and senior Crown Counsel from this Ministry's Head Office.
3. All Applications in Ontario for Authorizations relating to offences under the Criminal Code, except offences relating to drug conspiracies or conspiracy to commit criminal offences which were prosecuted by the Federal Department of Justice, are handled by the designated Agents of the

Attorney General of Ontario.

4. Each Application is carefully screened by the designated Agent. This intensive screening, coupled with restrictions imposed by the legislation itself and the fact that the final decision rests in the hands of a Judge of a court of superior jurisdiction, ensures that this valuable investigative tool is not being abused.
5. The 107 Authorizations applied for and granted in 1990 is a substantial increase over the 50 Authorizations granted in 1989. This increase appears to be a reflection of the decision of the Supreme Court of Canada on January 25, 1990, in the case of R. v. Duarte¹. That decision held that, while an interception with the consent of one of the parties is permitted under Section 184(1)(a) of the Criminal Code, if the state seeks to record the conversations of person Section 8 of the Charter of Rights and Freedoms imposes the requirement that prior judicial authorization be obtained. If no such Authorization is obtained, there will be a violation of Section 8 of the Charter. The consequence of the decision is an increase in the number of Authorizations being granted to cover these consent types of interceptions.

¹ [1990] 1 S.C.R. 30; (1990) 53 C.C.C. (3d) 1; 65 D.L.R. (4th) 240; 74 C.R. (3d) 281

6. The 107 Authorizations in 1990 pertain to 80 separate police investigations throughout the Province. In 18 of these investigations, additional Authorizations were subsequently obtained in circumstances which, in law, a renewal of the initial Authorization was not permitted. In these instances, the statistical data flowing from such multiple Authorizations in an investigation has not been double counted. From a statistical point of view, any such multiple Authorizations relating to the same matter have been treated in the same manner as renewals and this avoids the statistical distortion which would result if a multiplier factor was used in such circumstances.
7. The ability to lawfully intercept private communications continues to be an important investigative technique in the constant fight against crime. In 1990, as in past years, many cases were prosecuted primarily on the basis of intercepted communications.

YEAR	NUMBER OF AUTHORIZATIONS GRANTED DURING THE PAST TEN YEARS
1980	185
1981	149
1982	171
1983	155
1984	127
1985	132
1986	115
1987	82
1988	51
1989	50
1990	107

INTERPRETATION NOTE

The statistical data for the additional or optional offences of conspiracy, attempts, accessory after the fact, and counselling is included in the list of offences set out in paragraph (i) at pages 7 to 11 below. Such inclusion properly accords with the reporting provisions in Section 195 and with the definition of "offence" in Section 183 of the Code. In order to avoid unnecessary repetition of those section numbers, which come into play in respect of such ancillary offences, they have been omitted from paragraph (i). For any necessary cross reference such section numbers are:

Conspiracy	- Section 465
Attempt Murder	- Section 239
Attempts - General	- Section 24
Accessory After Murder	- Section 240
Accessory After - General	- Section 23
Counselling Offence	- Section 22

STATISTICS

OVERVIEW:	107	Authorizations
	0	Renewal of Authorizations
	80	Investigations

(a)	(1)	The number of Applications made for Authorizations	... 107
	(2)	The number of Applications referred to in paragraph (a)(1) that were granted	... 107
	(3)	The number of Applications that were refused	... 0
(b)	(1)	The numbers of Applications made for renewal of Authorizations	... 0
	(2)	The number of Applications referred to in paragraph (b)(1) that were granted	... 0
	(3)	The number of such Applications that were refused	... 0
(c)		The number of Applications referred to in paragraphs (a) and (b) that were granted subject to terms and conditions	... 107
(d)		The number of persons identified in an Authorization against whom proceedings were commenced at the instance of the Attorney General of Ontario in respect of:	
	(1)	an offence specified in the Authorization	... 68

(2) an offence other than an offence specified in the Authorization but in respect of which an Authorization may be given	...	30
(3) an offence in respect of which an Authorization may not be given	...	12
(e) The number of persons <u>not</u> identified in an Authorization against whom proceedings were commenced at the instance of the Attorney General of Ontario in respect of:		
(1) an offence specified in such an Authorization	...	20
(2) an offence other than an offence specified in such an authorization but in respect of which an Authorization may be given	...	2
(3) an offence other than an offence specified in such an Authorization and for which no such Authorization may be given	...	0
and whose commission or alleged commission of the offence became known to a peace officer as a result of an interception of a private communication under an Authorization		
(f) The average period for which Authorizations were given	...	50 days
(g) The number of Authorizations that by virtue of one or more renewals thereof were valid		
(1) for more than 60 days	...	0
(2) for more than 120 days	...	0
(3) for more than 180 days	...	0
(4) for more than 240 days	...	0

(h) The number of persons given notifications pursuant to Section 196 ... 298

(i) The offences in respect of which Authorizations were granted specifying the number of Authorizations given in respect of each such offence:

**Section of Criminal
Code of Canada
R.S.C. 1985, c. 46**

		<u>OFFENCE</u>	<u>NUMBER</u>
81	"	Using Explosives	2
		- conspiracy to	2
		- attempt	2
		- accessory after the fact	2
		- counselling	2
82	"	Possessing Explosives	2
		- conspiracy to	2
		- attempt	2
		- accessory after the fact	2
		- counselling	2
90	"	Possession of Prohibited Weapon	2
		- conspiracy	2
		- attempt	2
		- accessory after the fact	2
		- counselling	2
95	"	Importing or delivering prohibited weapon	1
		- conspiracy to	1
		- attempt	1
		- accessory after the fact	1
		- counselling	1
120	"	Bribery	1
		- conspiracy to	1
		- attempt	1
		- accessory after the fact	1
		- counselling	1

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Code of Canada
R.S.C. 1985, c. 46

		<u>OFFENCE</u>	<u>NUMBER</u>
122	"	Breach of Trust	2
		- conspiracy to	1
		- attempt	1
		- accessory after the fact	1
		- counselling	1
132	"	Perjury	2
		- accessory after the fact	2
139	"	Obstruct Justice	8
		- conspiracy to	6
		- attempt	7
		- accessory after the fact	6
		- counselling	6
201	"	Keep Common Betting House	1
		- conspiracy to	1
		- attempt	1
		- accessory after the fact	1
		- counselling	1
202	"	Engage in Bookmaking	4
		- conspiracy to	4
212	"	Procuring	1
		- conspiracy to	1
		- attempt	1
		- accessory after the fact	1
		- counselling	1
235	"	Murder	30
		- conspiracy to	35
		- attempt	27
		- accessory after the fact	31
		- counselling	31

Section of Criminal
Code of Canada
R.S.C. 1985, c. 46

		<u>OFFENCE</u>	<u>NUMBER</u>
264.1	"	Utter Threats	5
		- conspiracy to	3
		- attempt	3
		- accessory after the fact	2
		- counselling	2
271	"	Sexual Assault	3
		- conspiracy to	1
		- attempt	1
		- accessory after the fact	1
272	"	Sexual Assault with a Weapon	1
273	"	Aggravated Sexual Assault	1
334	"	Theft over	8
		- conspiracy to	7
		- attempt	5
		- accessory after the fact	4
		- counselling	4
346	"	Extortion	8
		- conspiracy to	4
		- attempt	4
		- accessory after the fact	2
		- counselling	2
347	"	Criminal Interest Rate	2
		- conspiracy to	1
		- attempt	1
		- accessory after the fact	1
		- counselling	1

Section of Criminal
Code of Canada
R.S.C. 1985, c. 46

		<u>OFFENCE</u>	<u>NUMBER</u>
348	"	Break, Enter	5
		- conspiracy to	5
		- attempt	4
		- accessory after the fact	3
		- counselling	3
354	"	Possession of Property Obtained by Crime	10
		- conspiracy to	9
		- attempt	8
		- accessory after the fact	7
		- counselling	7
380	"	Fraud	7
		- conspiracy to	5
		- attempt	4
		- accessory after the fact	3
		- counselling	3
430	"	Mischief Causing Danger to Life	1
		- conspiracy to	1
433	"	Arson	1
		- conspiracy to	1
		- attempt	1
		- accessory after the fact	1
		- counselling	1
449	"	Make Counterfeit Money	1
		- conspiracy to	1

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OFFENCENUMBER

450	"	Possession of Counterfeit Money	2
		- conspiracy to	1
		- attempt	1
		- accessory after the fact	1
		- counselling	1
452	"	Utter Counterfeit Money	2
		- conspiracy to	1
		- attempt	1
		- accessory after the fact	1
		- counselling	1
462.31	"	Laundering Proceeds of Crime	3
		- conspiracy to	2
		- attempt	2
		- accessory after the fact	2
		- counselling	2

- (j) A description of all classes of places specified in the Authorization and the number of Authorizations in which each such class of place was specified:

Residences	...	96
Commercial Establishments	...	50
Other	...	45

- (k) A general description of the methods of interception involved in each interception under an Authorization:

Telephone Device	...	218
Transmitting Device	...	49
Other	...	20

- (l) The number of persons arrested whose identity became known to a peace officer as a result of an interception under an Authorization
- | | |
|-----|----|
| ... | 45 |
|-----|----|

- (m)² The number of criminal proceedings commenced at the instance of the Attorney General of Ontario in which private communications obtained by interception under an Authorization were adduced in evidence and the number of such proceedings that resulted in a conviction:
- (1) Number of criminal proceedings commenced at the instance of the Attorney General of Ontario in which private communications obtained by interception under an Authorization were adduced in evidence ... 52
 - (2) Number of such criminal proceedings that resulted in a conviction ... 42
- (n) The number of criminal investigations in which information obtained as a result of the interception of a private communication under an Authorization was used although the private communication was not adduced in evidence in criminal proceedings commenced at the instance of the Attorney General of Ontario as a result of the investigations ... 35
- (o) The number of prosecutions commenced against officers or servants of Her Majesty the Queen in right of Canada or members of the Canadian Forces for offences under Section 184 or 193 of the Criminal Code of Canada ... 0


DEPUTY ATTORNEY GENERAL

² The data in paragraph (m) relates to the number of proceedings, etc., in 1990 on Authorizations in that year. The following updated statistics have been provided by the police in respect of proceedings concluded in 1990 and 1991, which emanated from Authorizations granted in prior years.

Year of Authorization	Number and Result of Court Proceedings
1985	3 proceedings resulting in 3 convictions
1987	1 proceeding resulting in 1 conviction
1988	4 proceedings resulting in 4 convictions
1989	7 proceedings resulting in 7 convictions

